

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5538 of 2021**

Arising Out of PS. Case No.-315 Year-2018 Thana- FATEHPUR District- Gaya

Bhola Paswan, aged about 29 years, Male Son of Dukhit Paswan, Resident of
Village- Neemi Tola Kenarchak, PS- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S S P Yadav, Advocate

For the State : Mr. Pawan Kumar Chaurasia, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 17-09-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. S S P Yadav, learned counsel for the petitioner and Mr. Pawan Kumar Chaurasia, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Fatehpur PS Case No. 315 of 2018 dated 13.10.2018, instituted under Sections 147, 149, 341, 323, 504 and 308 of the Indian Penal Code, 1860.



4. The petitioner, along with five other named and seven unknown persons, is accused of assault on the informant and specifically against the petitioner, it has been stated that he had inflicted blow on the head by lathi resulting in injury and also of hitting on the hand resulting in fracture of the right hand.

5. Learned counsel for the petitioner submitted that for the same incident, the father of the petitioner has also lodged Fatehpur PS Case No. 316 of 2018 under Sections 147, 149, 341, 323, 504, 342, 506 of the Indian Penal Code and 3/4 of the Prevention of Witch (Daain) Practices Act, 1999. It was submitted that the informant's daughter had committed suicide a month back for which the petitioner's side was held responsible and the father of the petitioner was branded as a daain and the other side were the aggressors and the petitioner has sustained head injury and his mother has suffered fracture of hand due to the assault by the informant side. It was submitted that the petitioner has no criminal antecedent and further that the dispute is between two castes and now they have compromised the matter among themselves. Learned counsel submitted that he has filed supplementary affidavit bringing on record copy of the compromise.



6. Further, learned counsel submitted that the learned Additional Sessions Judge, 1st, Gaya, in his order dated 13.10.2020 passed in ABP No. 4085 of 2019, while rejecting the prayer for anticipatory bail of the petitioner, has noted that the injury report in paragraphs no. 25 and 46 of the case diary corroborate the prosecution case, but it has not been stated that whether it was simple or grievous. Learned counsel submitted that though the injury report does not give a final finding and is not based on any X-ray report, still the doctor has written that it was grievous, which raises serious doubt about the allegation made in the FIR. Learned counsel submitted that the parties have compromised, which has also been filed before the Court below, copy of which has been brought on record as Annexure-3 to the supplementary affidavit filed on behalf of the petitioner. Drawing the attention of the Court to the same, learned counsel submitted that good feelings have been restored between the parties and all disputes between them have been settled. It was submitted that such compromise was without any threat or coercion and that the informant does not want to pursue the case.

7. Having perused the compromise, when the Court wanted learned counsel for the petitioner to inform as to



whether their case i.e., Fatehpur PS Case No. 316 of 2018, filed by the father of the petitioner, had also been compromised, learned counsel had submitted that he has no instructions in the matter and prayed for a short adjournment to file further affidavit.

8. In view of the aforesaid stand of the parties before the Court on the previous occasions, the Court had granted time to the petitioner to file supplementary affidavit as also further affidavit.

9. In terms thereof, supplementary affidavit and 2nd supplementary affidavit have been filed on behalf of petitioner bringing on record the compromise between the parties, in both Fatehpur PS Case No. 315 of 2018 i.e., the present case as well as Fatehpur PS Case No. 316 of 2018.

10. Learned APP, who had earlier obtained the copy of the case diary submitted that the Senior Superintendent of Police, Gaya has also sent a report in which it has been stated that the parties have compromised the matter and peace is prevailing in the area.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being peace between the parties and they having voluntarily compromised the matter by filing joint compromise



petition in both the cases in February, 2021 itself and peace being restored in the area, for the ends of justice, the Court deems it appropriate to allow the prayer for pre-arrest bail so that peace between the parties is sustained as otherwise, if any side suffers adverse consequences, there are chances of the enmity between the sides reviving.

12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-X, Gaya in Fatehpur PS Case No. 315 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the



notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

14. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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